

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6756

BILL NUMBER: HB 1115

NOTE PREPARED: Jan 1, 2009

BILL AMENDED:

SUBJECT: Controlled Substances and Children.

FIRST AUTHOR: Rep. Cheatham

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires the Department of Child Services (DCS) to notify the appropriate prosecuting attorney concerning the birth of a child who is born with fetal alcohol syndrome or with a controlled substance or legend drug in the child's body.

The bill requires a law enforcement agency to inform a local office of the DCS when the law enforcement agency arrests a person for any of the crimes the conviction of which renders the offender a "sex or violent offender".

The bill also provides that a woman who knowingly or intentionally consumes a controlled substance or a legend drug while knowing she is pregnant commits a Class D felony if the woman's pregnancy results in the birth of a child and the body of the child contains any amount, including a trace amount, of a controlled substance or legend drug.

Effective Date: July 1, 2009.

Explanation of State Expenditures: This bill would require DCS to notify appropriate prosecuting attorneys if a child is born with fetal alcohol syndrome or any amount of a controlled substance or legend drug in the child's body. This bill will increase the workload of DCS to provide these notices. Increases in workload will depend on how many mothers give birth to children that contain a controlled substance or legend drug in their bodies. DCS reports that these provisions can be accomplished within their existing staffing and resource levels.

Additionally, the legislation requires law enforcement to notify the local office of DCS if a person is arrested for a sex or violent offense (as defined in IC 11-8-8-5). Law enforcement are provided the discretion to notify

the local office of DCS is they arrest an individual for a felony that is not considered a sexual or violent offense. This will increase the workload of the Indiana State Police (ISP) to the extent that individuals are arrested for sexual or violent offenses as well as to the extent that ISP decides to notify local offices of other felony arrests.

Penalty Provision: The bill also adds that a mother that (1) knows she is pregnant, (2) gives birth to a child who has any amount of a controlled substance or a legend drug, and (3) does not have a prescription for the substance or a practitioners order, commits a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Background Information: DCS currently reports instances of fetal alcohol syndrome to prosecuting attorneys under guidelines already established in the Department.

Explanation of State Revenues: *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: The legislation requires local law enforcement to notify the local office of DCS if a person is arrested for a sex or violent offense (as defined in IC 11-8-8-5). Local law enforcement are provided the discretion to notify the local office of DCS is they arrest an individual for a felony that is not considered a sexual or violent offense. This will increase the workload of law enforcement to the extent that individuals are arrested for sexual or violent offenses as well as to the extent that law enforcement decide to notify local offices of other felony arrests.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

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